FEB 16 PAGE 19

RECEIVED
FEB 6 - 1979
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

WASHINGTON, D. C.

NO. 78-5551

HENRY ALBERT SMITH,

APPELLANT,

V.

JAMES C. WOODARD AND MEMBERS OF THE STATE OF NORTH CAROLINA PAROLE COMMISSION,

APPELLEES.

SUPPLEMENTAL BRIEF

UNIT 4415
CASWELL COUNTY
YANCEYVILLE, NORTH CAROLINA 27379

HENRY ALBERT SMITH # 20120-92
P. O. BOX 217
YANCEYVILLE, NORTH CAROLINA 27379

IN THE SUPREME COURT OF THE UNITED STATES

WASHINGTON, D. C.

NO. 77-5551

HENRY ALBERT SMITH,

APPELLANT,

V.

JAMES S. WOOLARD AND MEMBERS OF THE STATE OF NORTH CAROLINA PAROLE COMMISSION,

APPELLEES.

SUPPLEMENTAL BRIEF

In further reference to the above captioned case, the appellant has designed as Exhibit D, a letter dated August 25, 1977 that he received from Ms. Mary R. Logan, case analyst, and has attached the same hereto. He has also designed as Exhibit E, a letter dated March 2, 1978 that he received from Sam Boyd, case analyst, and has attached the same hereto.

It should be noted in Exhibit A, B and E, among other things, that the appellees have erroneously denied parole to appellant because he was in close custody and not in honor grade or some other custody levels. Exhibit E stresses this point in that it specifically states that "because you are not now in honor grade, the Commission feels that further consideration of your case should be deferred until you have been promoted to that custody level and demonstrated your willingness and ability to handle the additional freedoms and responsibilities of that custody level."

It must need be reiterated here that the appellant begin serving his 8 to 10 years sentence in the State's Prison at Raleigh, North Carolina on May 30, 1975 and that since that time he has had only one infraction, which I might add, is remarkable in this day and age.

That on or about March 22, 1978, the appellant was transferred from the State's Prison to the Caledonia Prison Farm, Unit 3305. That on April 20, 1978, the prisoners at the Caledonia Prison Farm went on strike and refused to report to their assigned jobs. As a result, they were given write-ups. "... Based on information and belief....', the whole prison population at the Caledonia Prison Farm were given the same or basically the same write-ups. That inasmuch as the appellant had not been assigned to a job, he

received the same write-up as the other prisoners. In a word, the appellant was written-up for refusing to go to a job that he had not been assigned to. However, the question may arise as to the reason why the appellant has not been promoted to that custody level that the Commission has set out in his statement in Exhibit E, wherein he would have been given an opportunity to demonstrate his willingness and ability to handle the additional freedoms and responsibilities of that custody level. Whatever the reason, it is certainly not the results of the action or inaction of the appellant; and he should not have been penalized for matters and things which are invariably in the hands of providence.

In further reference to the statements made and contained in Exhibit E, that: . . . "Your case has been scheduled for review again on or about February 24, 1979", is equivalent to the statement made and contained in Exhibit D, that: ".... Your next parole review date has been scheduled for February 25, 1979"; are just statements without any basic meaning, in so far as the granting of parole in this case is concerned, and are therefore statements that should not be viewed with anything like equanimity.

It appears that the appellees are holding the appellant to the same standards of formal proceedings and pleadings as those drafted by lawyers. Wherefore, the appellant urges the Honorable Court not to hold him to those requirements. Haines v. Kerner, 404 U.S. ___, 92 S. Ct. 594, 30 L.Ed.2d. (12/13/71), cited at 1 CCH 14.

NOTE:

On January 30, 1979, the appellant appeared before the area classification board, at this Unit, 4415, and was informed that he could not be recommended for honor grade until the final disposition of the alleged detainer on file against him from the Adult Probation Authorities, Columbus, Ohio, referred to in the appellant's petition for writ of certiorari, on page 4, etc. It would certainly follow that the reason the appellant has not been promoted to that custody level that would perhaps substantially enhance his chances of making parole, was predetermined by the appellees, to use as a further and continuous basis to justify their denial of parole in this case

Respectfully submitted,

Henry Albert Smith

Appellant

STATE OF NORTH CAROLINA)
COUNTY OF CASWELL) SS:

VERIFICATION

I, Henry Albert Smith, being duly sworn, says: that he is the appellant in the foregoing conclusion; that he has read the foregoing and believes the same is true, except for those matters alleged to be of his own knowledge which are true.

Henry Albert Smith
Appellant

Sworn to and subscribed before me
on February 2, 1979.

Patricia M. Fuquay
NOTARY PUBLIC

My Commission expires 6-15-83 19__.

PROOF OF SERVICE

I hereby certify that on February 2, 1979, that a copy of the foregoing was mailed, postage prepaid, to Rufus L. Edmisten, Respondent, Post Office Box 629 Raleigh, North Carolina 27602

Henry Albert Smith
Appellant

James B. Hunt, Jr.
Governor
James C. Woodard
Chairman

State of North Carolina
Parole Commission
831 W. Morgan Street
Raleigh 27603

Commissioners
Jane S. Greenlee
J. C. Jones
Rae H. McNamara
Henry W. Stedine

Exhibit D.
Copy

August 25, 1977

Mr. Henry Albert Smith, #20128-92 (MRL)
Central #3100

Dear Mr. Smith:

Your next parole review date has been scheduled for February 25, 1978.

Sincerely,

s/
Mary R. Logan
Case Analyst

MRL/bcw

Copy

Exhibit E.

James B. Hunt, Jr.
Governor
James C. Woodard
Chairman

State of North Carolina
Parole Commissioners
831 W. Morgan Street
Raleigh 27603

Commissioners
Jane S. Greenlee
J. C. Jones
Rae H. McNamara
Henry W. Stendine

Copy

March 2, 1978

Mr. Henry Albert Smith, 20128-92 (SB)
Central 3100

Copy

Dear Mr. Smith:

The Parole Commission has carefully considered your case and concluded that parole should not be granted at this time. The Commission, in reaching its decision, took into consideration your present custody level and a detainer filed against you.

Records furnished to us by the Division of Prison reveal that you are presently in close custody.

Because you are not now in honor grade, the Commission feels that further consideration of your case should be deferred until you have been promoted to that custody level and demonstrated your willingness and ability to handle the additional freedoms and

responsibilities of that custody level. The Commission is of the opinion that your continued correctional will substantially enhance your capacity to lead a law-abiding life when released at a later date.

Our records indicate that you have a detainer on file from the state of Ohio. The Commission felt that further consideration of your case should be deferred until proper disposition has been made of the detainer.

Your case has been scheduled for review again on or about February 24, 1979.

Sincerely,

s/
Sam Boyd
Case Analyst

SB/ba

cc: Unit Superintendent

Copy